

TOWN OF CUSHING
PLANNING BOARD
Minutes of Meeting
November 2, 2005
Approved 12/7/05

Board Present: Chairman Mike Roberts, Evelyn Kalloch, Arthur Kiskila, Dan Remian, CEO Scott Bickford and Secretary Deborah Sealey

Board Absent: Bob Ellis

Call to Order: The Chairman called the meeting to order at 7:00 pm.

1. Minutes of Previous Meeting:

ACTION: Mr. Remian made a motion, seconded by Mr. Roberts, to accept the minutes of the 10/5/05 meeting as presented.
Carried 4-0-0

2. Tara Lynde, Moose Run Subdivision, portion of Map 4, Lot 3, presentation of final plan.

Chairman Roberts said the PB would look at the changes included on the revised plan and then review the criteria. Mr. Lynde stated he had reduced the number of lots from five to four, with the original Lot #4 now increased to 10 acres (encompassing Lot #5). Mr. Roberts read through the list of corrections the PB had requested to determine if they had been made.

Mr. Remian asked if electric service would be underground and Mr. Lynde said it was possible if it were not too expensive and there were no obstacles. Mr. Kiskila noted that the road to the "T" turnaround was 2200' long, which might render a house built on Lot 3 or Lot 4 more than 2000' from the fire pond. CEO Bickford clarified that the ordinance required the fire pond to be no more than 2000' from the lot line, not from a dwelling on the lot. Mr. Roberts agreed that the plan would meet that requirement. Mr. Lynde stated that the pond would be enlarged from its present size. Mr. Remian asked if the drainage plan should be shown and Mr. Bickford said it should.

The PB then reviewed the subdivision criteria under Article VII of the Cushing Subdivision Regulations.

ACTION: Mr. Roberts made a motion, seconded by Mr. Remian, for a positive finding of fact on Subsection 7.1 (Pollution).
Carried 4-0-0

ACTION: Mr. Remian made a motion, seconded by Mr. Roberts, for a positive finding of fact on Subsection 7.2 (Sufficient water).
Carried 4-0-0

Mr. Remian asked if all disposal permits were for non-engineered systems and Mr. Lynde responded that the systems were engineered. CEO Bickford said the correct term was "site-evaluated non-engineered system".

ACTION: Mr. Roberts made a motion, seconded by Mr. Kiskila, for a positive finding of fact on Subsection 7.4 (Erosion).
Carried 4-0-0

ACTION: Mr. Remian made a motion, seconded by Mr. Roberts, for a positive finding of fact on Subsection 7.5 (Traffic).
Carried 4-0-0

ACTION: Mr. Roberts made a motion, seconded by Mr. Remian, for a positive finding of fact on Subsection 7.6 (Sewage disposal).
Carried 4-0-0

ACTION: Mr. Roberts made a motion, seconded by Mrs. Kalloch, for a positive finding of fact on Subsection 7.8 (Aesthetic, cultural and natural values).
Carried 4-0-0

ACTION: Mr. Roberts made a motion, seconded by Mr. Kiskila, for a positive finding of fact on Subsection 7.9 (Conformity with local ordinances).
Carried 4-0-0

Mr. Remian asked Mr. Lynde if he had an estimate on the cost of building the road. Mr. Lynde replied that he had someone who would build the road in exchange for a reduction on the cost of a lot. Mr. Remian then suggested that Mr. Lynde should open a Letter of Credit with the Town of Cushing as the beneficiary. Mrs. Kalloch said a letter from the bank saying Mr. Lynde had the necessary assets would be sufficient. The PB agreed and Mr. Remian suggested the plan could be approved with the condition that such a letter be forthcoming. Mr. Bickford said it would be cleaner to simply say that no lot could be developed before the fire pond was approved.

ACTION: Mr. Roberts made a motion, seconded by Mr. Kiskila, that no building could be started until the fire pond was approved.
Carried 4-0-0

ACTION: Mr. Remian made a motion, seconded by Mr. Roberts, for a positive finding of fact on Subsection 7.10 (Financial and technical capacity) based on receiving a letter from Mr. Lynde's accountant stating that he had the required funds.
Carried 4-0-0

ACTION: Mr. Roberts made a motion, seconded by Mr. Kiskila, for a positive finding of fact on Subsection 7.12 (Groundwater).
Carried 4-0-0

ACTION: Mr. Roberts made a motion, seconded by Mr. Kiskila, for a positive finding of fact on Subsection 7.14 (Freshwater wetlands).
Carried 4-0-0

ACTION: Mr. Remian made a motion, seconded by Mr. Roberts, for a positive finding of fact on Subsection 7.15 (River, stream or brook).
Carried 4-0-0

ACTION: Mr. Roberts made a motion, seconded by Mrs. Kalloch, for a positive finding of fact on Subsection 7.16 (Storm water).
Carried 4-0-0

It was determined that criteria 7.3, 7.7, 7.11, 7.13, 7.17 and 7.18 were not applicable.

ACTION: Mr. Roberts made a motion, seconded by Mr. Kiskila, to accept the subdivision as submitted.
Carried 4-0-0

3. James Tower, Cushing Holdings, LLC, continuation of road change application to his private pier, carried over from October Planning Board meeting. Mr. Tower displayed a drawing of both the

existing and proposed pier road. He said he was experiencing continued erosion problems on the steep hill beyond his house and had plotted out a longer road with gentler grades, a portion of which would be within the Shoreland Zone. He stated that changing the road to this configuration would actually reduce the impact to wetlands. This road, he said, would be constructed (crushed rock) as his other subdivision roads but would be narrower. CEO Bickford asked if this road was totally on land retained by the owner in the Shoreland Zone with more than 10 cubic yards of fill; if so, Mr. Bickford said it required only a permit from the CEO. Mr. Tower disagreed, saying he thought it came under road and driveway construction in a residential zone, which required PB approval. The CEO and Mr. Tower reviewed the regulations and determined that it was a CEO issue, but due to the size of the project the CEO suggested the PB review it.

ACTION: Mr. Roberts made a motion, seconded by Mr. Remian, to approve the road change.
Carried 4-0-0

4. James Tower, Cushing Holdings, LLC, request to eliminate the paved apron at the entrance to Gaunt Neck Lane. Mr. Tower reminded the PB that, at the time he presented for approval a minor relocation and reorientation of the entrance to Gaunt Neck Subdivision, Selectman David Glidden had requested that a 50' paved apron be included in the construction because of the steep slope and the possibility of gravel washing onto Pleasant Point Road. Mr. Tower stated that his road was different from most gravel roads and said that record-breaking rains in October had not washed any materials onto the road. Therefore, he was asking the PB to remove the requirement for the 50' apron, though he suggested he would be willing to build a 10' apron if required.

Mr. Roberts then read aloud a letter from the Selectmen that said they had voted on 10/24/05 to ask the PB to continue to hold Cushing Holdings, LLC, to its agreement to provide a 50' paved apron at the entrance of Gaunt Neck Road. Mr. Remian asked where the agreement was and Mr. Tower said it was none of the Selectmen's business. Mr. Roberts said the road right now was in the best condition it ever would be and would start to deteriorate after lots of use; without the apron, he felt that things might wash out onto Pleasant Point Road. Mr. Remian asked what a 50' apron would buy? Chester Knowles spoke from the audience to say that when Mr. Glidden originally requested the apron his first concern had been water runoff freezing on Pleasant Point Road. He had said that snowplows would eventually damage the road trying to remove the ice. Mr. Remian said that, during the recent heavy rains, there was no water coming down Gaunt Neck Road.

Mr. Tower said it was reasonable to think the road would deteriorate and then listed all of the state-of-the-art road equipment he had recently purchased for maintenance of the road. He said his intent was to maintain the road so the surface was equivalent in smoothness to new asphalt and he had developed a budget, to be paid by the three subdivision associations, to cover adequate maintenance. He admitted there was currently too much surface rock and said the correct mix would be put in. Mrs. Kalloch asked for details of the changes Mr. Tower would make to the road. Mr. Remian noted that Mr. Tower was providing pervious area now, while the apron would be impervious. Mr. Tower agreed, saying the apron would result in more water on Pleasant Point Road. Mr. Roberts said that with the correct grade water should not go onto the public road.

Mr. Tower drew a diagram to illustrate how the vectors changed along the slope so water ran off the sides of the road. Mr. Roberts remarked that ice would remain longer on a gravel road than on asphalt. Mr. Tower countered that his road surface material was dark gray granite that would absorb sunlight in winter, helping to keep the road free of snow and ice deposits. There followed a discussion of why the Selectmen were concerned. Mr. Roberts thought they were most concerned about ice, which was a problem on other town roads. Mr. Tower said the roadway ordinance should require all roadways to attach to other roads with a two-percent grade. Mr. Roberts said if the PB rescinded the agreement, the town would have no recourse if problems developed.

ACTION: Mr. Remian made a motion, seconded by Mrs. Kalloch, to leave the road as it now physically sat, but if problems arose in a year or two Mr. Tower would be required to install a 50' asphalt apron.

The motion and second were later withdrawn.

Mrs. Kalloch said the motion would not be enforceable but Mr. Remian said it would, because it was a performance issue. Mr. Tower said he would agree to a 10' or 15' apron, but said 50' seemed extreme. CEO Bickford said he didn't think the issue would be easily settled and suggested soliciting an outside decision, possibly from MDOT.

ACTION: Mr. Remian made a motion, seconded by Mrs. Kalloch, to leave the road as it now physically sat, but if problems arose within two years Mr. Tower would be required to install a 15' asphalt apron.

Failed 1-2-1 (Mr. Remian voted for and Mrs. Kalloch abstained)

ACTION: Mr. Roberts made a motion, seconded by Mrs. Kalloch, to have the CEO, as quickly as possible, check with MDOT to see if they had any suggestion on the length of a paved apron and, if so, to make that recommendation directly to Mr. Tower; and if not, a 15' apron would be the default requirement.

Failed 1-2-1 (Mr. Roberts voted for and Mrs. Kalloch abstained)

ACTION: Mr. Kiskila made a motion, seconded by Mr. Remian, that Mr. Tower was required to put in a 15' apron on Gaunt Neck Road.

Carried 3-1-0 (Mr. Remian voted against)

5. Old Business: Mrs. Kalloch said the PB needed to have a workshop to work on subdivision regulations. Discussion followed. Mr. Tower offered to provide the Board with a half-dozen subdivision ordinances he had worked with and thought were exemplary. The work session was scheduled for January 12, 2006 at 6:00 pm.

6. New Business:

1. Mr. Kiskila brought to the Board's attention his approval (dated 10/22/05) of the fire pond, dry hydrant, road access and turnout on Raccoon Road.

2. Mr. Roberts read a letter from Barbara Mosher asking for a fire pond waiver for a lot Mrs. Ogilvie would sell on Gay Island.

ACTION: Mr. Roberts made a motion, seconded by Mr. Kiskila, to waive the fire pond requirement for Elisabeth Ogilvie.

Carried 3-0-1 (Mr. Remian abstained)

7. Adjournment: Mr. Remian made a motion, seconded by Mr. Roberts, to adjourn the meeting at 8:38 pm.

Carried 4-0-0.

Respectfully submitted,

Deborah E. Sealey